

Three Rivers Library System
1001 Grand Avenue, Suite 205
Glenwood Springs, Colorado 81601

RESPONSE TO NOTICE OF PROPOSED RULE MAKING AND ORDER

Federal Communications Commission
In the Matter of Schools and Libraries Universal Service

CC Docket No. 02-6

Background

Three Rivers RLSS is one of seven regional library service systems in Colorado. Publicly-funded libraries (including school districts and public libraries) are members of Colorado Systems. As the “billed entity” for a network of libraries (and one rural school district) in eighteen counties in Western Colorado, Three Rivers RLSS has applied for and received e-rate discounts for these libraries and schools since the beginning of the program.

The comments below are those of the e-rate administrator for Three Rivers, who is also the Director of Three Rivers. Three Rivers is a small agency with a total staff of 3.0 FTE.

CONSORTIA ISSUES

The established process of applying for and receiving e-rate discounts does not work well for the Three Rivers RLSS.

Several factors make consortia different from single applicants in the e-rate process:

1. Multiple entities

At the present time, 17 independent agencies (public libraries or school districts) participate in the TriPath network (a project of the Three Rivers and Pathfinder RLSS, for which we apply for e-rate discounts). At any time current participants can **opt out** and “go it alone” for Internet service instead of participating in the TriPath network. Or, on the other hand, other member libraries can **opt to join in** the network. The e-rate process requires that an applicant for funds lists participating agencies at the time the 470 application is filed, or approximately seven months before the e-rate funding year begins. With the rapid changes in technology, and new options becoming available, we cannot be certain of who all the network participants will be when the e-rate year begins, or whether the libraries listed in the 470 form will participate for the entire e-rate year.

2. Multiple service providers

The TriPath Network is spread over 18 counties, many of which are served by local telephone companies. Instead of dealing with one or two service providers, common for single entity applicants, Three Rivers deals with seven or eight service providers and files nine or ten funding requests associated with these providers.

470 Application

Three Rivers does not apply for internal connections. In the five years of program applications, Three Rivers has never received a bid from a service provider as a result of filing the online 470 form. In rural areas there are few if any choices of telecommunications providers. Therefore, we consider the 470 form just another “hoop” to go through in order to receive e-rate discounts.

471 Application

The 471 application is a major burden for the Three Rivers RLSS. The Three Rivers 471 application for Year Five totaled 75 pages.

The requirement of using National School Lunch Program statistics is a major cause of this burden to Three Rivers. In the first year of the program, the applicant process was far easier. To calculate the discount, we used NSLP statistics for the school nearest the actual location of the library where a TriPath circuit was located. Now one must use far more complicated statistics.

In order to calculate Year Five discounts, Three Rivers with a total staff of 3.0 FTE was required to do the following:

A chart was prepared by Three Rivers staff with data on 339 schools.

For each school the following data was input:

1. Name of school
2. SLD entity number
3. Urban or Rural
4. Total # of Students
5. # Students Eligible for NSLP
6. % Students Eligible for NSLP
7. Discount % from Discount Matrix
8. Weighted Product for Calculating Shared Discount

After this chart was compiled, Three Rivers staff (1) added together the weighted product for all schools in the district (2) added the total students in order to get (3) the weighted average discount for the school district. A library's discount percentage is the weighted average discount for the school district in which the library is located.

A Three Rivers employee spent approximately one workweek in gathering and calculating data for these 339 schools (including phone calls to the SLD for entity numbers of schools not in the SLD database). Based on previous years, however, we thoroughly expect the SLD to throw out all this work. The 471 application is prepared in December, and filed by the mid-January deadline. By December the State Education Department is not able to post October NSLP data, so the e-rate applicant must use NSLP data from the previous year. However, by the time SLD staff review the 471 application, the current year's NSLP data is on the Web, so the work the applicant has done is thrown out. Time of both the applicant and SLD staff is wasted to calculate a new discount percentage, usually up or down no more than one percentage point.

It appears to us that the 471 form assumes that a consortium consists of only libraries or only schools. In our case, our network includes primarily public libraries but also one school district. We have been unable to use the 471 online form because of this situation. Instead we are required to spend a greater amount of time typing forms.

471 Appeal

In Year Two, the SLD made an error and refused one of the Three Rivers funding requests, giving the reason that we had signed a contract with the service provider before the allowable contract date.

We filed a written letter of appeal on August 20, 1999.

We finally received the check from the service provider on February 7, 2001.

It took more than 17 months from the date of the letter of appeal was sent to the SLD until the day we were finally reimbursed.

The SLD seems to concentrate upon program compliance. There is no emphasis, in our experience, on customer service or problem resolution.

472 (BEAR) Form

Three Rivers has never been given the option of discounts being taken “off the top.” Service providers have said “it’s too complicated.” It would help us a great deal if we did not have to submit BEAR forms to service providers in order to receive funds. On the average it takes two months plus several phone calls on our part to receive funds that the SLD has approved and sent to the service provider.

If Three Rivers were to apply for quarterly e-rate payments from service providers, the following work would be required over a one-year period:

1. 36 BEAR forms completed
2. 36 BEAR forms faxed to service providers
3. 36 BEAR forms sent to the SLD
4. Approximately 125 phone calls made to service providers (1) to get the faxed BEAR form back and (2) to request the payment that has been approved.

In our experience, we do not believe that the SLD has adequate mechanisms in place with service providers that do not comply with the program. Our experience is as follows:

1. In March 2001 the SLD approved one of our BEAR forms and sent the funds to the service provider. The check was cashed by the service provider in April 2001.
2. In the spring and early summer of 2001, Three Rivers staff made more than 20 phone calls to the service provider, which were not returned. Written correspondence was tried, to no avail.
3. All these attempts to contact the service provider and receive the e-rate funds the service provider owed us were shared with the SLD by Three Rivers staff.
4. The service provider declared bankruptcy in late July, 2001.
5. In the late fall of 2001, SLD staff contacted us about the “Good Samaritan Program” in which we could receive those funds through another service provider.
6. We submitted the Good Samaritan request on December 12, 2001. No response has been received.
7. **Almost a year later, we have not yet received the funds.**

Other Communication Concerns

Written communications from the SLD announcing decisions or approvals are usually lengthy (three or four pages) and difficult to read and understand. We believe this is the reason that small service providers do not understand what they are required to do.

At other times, communication from the SLD can be arrogant and terse.

For example, the SLD faxed to Three Rivers the following communication on February 22, 2002. This communication was the first communication from the SLD since Three Rivers submitted the 471 form for Year Five:

“We need to receive this information from you within 7 calendar days of this communication with you. If we do not receive the requested information from you within this time frame, your Form 471 application will be rejected and returned to you.”

The SLD should be aware that consortia such as Three Rivers have few staff, and those staff are not office-bound. The smaller the agency, the more likely that only one person understands the e-rate process. A demand for a seven-day turnaround is not acceptable to Three Rivers.

OTHER ISSUES

Audit Requirements

Three Rivers is opposed to the proposed new rule that would require an applicant to pay for an audit, if so ordered by the FCC Administrator. Three Rivers is required to have an annual audit conducted by a CPA. Financial records as they relate to the e-rate program are examined during the annual audit. We believe an SLD requirement to have a separate audit of e-rate funds, and for the applicant to pay for this additional audit, is an unnecessary burden on smaller libraries and entities such as Three Rivers.

Eligibility of Specific Services

In previous years Three Rivers applied for and received e-rate discounts for cellular phone service. In Year Four, our request for cellular phone service was denied. The requirement that cellular service be provided for educational purposes (strictly defined) prevents Three Rivers, and most libraries, from receiving e-rate discounts. The logic here is murky. If one uses a cell phone for a call, the e-rate discount **does not** apply. If one used a telephone for the same call, the e-rate discount **does** apply. Three Rivers supports broadening eligibility for wireless services.

ADA Compliance

Three Rivers does not support the suggested new rule of certifying that e-rate participants comply with the ADA. We consider this just one more burden on consortia (collecting certifications from 17 independent agencies), and one more way to discourage small, rural libraries from participating in the e-rate program.

Unspent Funds

Concern about unspent funds is expressed in the FCC Notice of Proposed Rule Making and Order.

Because of the way the e-rate program operates, estimates must be made far in advance of the funding year. Page one of this response describes the difficulty of this approach for a consortium such as Three Rivers.

As a consortium our experience has been:

Some of our funding requests are **underspent** (funds received are less than approved, because we actually spent less than estimated).

Some of our funding requests are **overspent** (we actually spent more than estimated with a service provider, and consequently do not receive e-rate discounts on the additional funds paid to that service provider).

Only contracted services can be “right on the money.”

Before approving a 471 application, SLD staff contact applicants for documentation of actual costs incurred with a service provider or providers. However, what is asked for is documentation for the current year, whereas the 471 application is made for the succeeding year. Any planned expansion of consortia services is not taken into consideration given the SLD concern about underspending.

Suggestions for Improving Program Operation

1. Eliminate use of National School Lunch Program statistics for libraries. Consider using Census statistics instead, for the library's legal service area. Library discounts are dependent upon the vigilance, or lack of vigilance, on the part of the school district, in “signing up” all eligible children. Libraries are hampered if located in a school district that does not apply for the e-rate, a district that has no purpose in signing up every eligible child.
2. Revise and simplify the process. For returning applicants, do not require 470 and 471 application each year. Applicants should be able to submit changes to the original application instead of repeating the same information year after year.
3. Eliminate the BEAR form. Set up an easier process for both service providers and e-rate recipients to receive and disburse e-rate funds. The SLD should ascertain from service providers just what it is that makes it so complex for service providers to take e-rate discounts off the applicant's monthly bill.

If a cap has to be set on amounts received, make that cap by applicant, NOT by individual funding request.
4. Establish SLD customer service standards, including an acceptable length of time of response when contacted by applicants. Response times should be the same for applicants, service providers and the SLD.